

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL R. LITTLE,
Plaintiff

v.

WARDEN D. EBBERT,
Defendant

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No. 1:17-cv-01915

(Judge Kane)

ORDER

AND NOW, on this 11th day of December 2018, in accordance with the Memorandum issued concurrently with this Order, **IT IS ORDERED THAT:**

1. Plaintiff's motion for an extension of time to comply with the Court's May 18, 2018 Order (Doc. No. 9), is **GRANTED**;
2. Plaintiff's motion to reopen this action (Doc. No. 10), is **GRANTED** and the Clerk of Court is directed to **REOPEN** this action;
3. Plaintiff's motion for leave to proceed in forma pauperis (Doc. No. 11), construed as a motion to proceed without the full prepayment of costs and filing fees, is **GRANTED** and the complaint (Doc. No. 1), is deemed filed;
4. All of the claims and Defendants, with the exception of the Eighth Amendment deliberate indifference claim related to the bottom bunk pass against Defendants Pigos and Fasciana, are **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and without leave to amend;
5. The Clerk of Court is specially appointed to serve a copy of Plaintiff's complaint, notice of lawsuit and request for waiver of service of summons, waiver, and this Order, upon Defendants. The Court requests that Defendants cooperate in efforts to simplify case administration by waiving service pursuant to Fed. R. Civ. P. 4(d). The waiver request shall inform Defendants both of the consequences of compliance and of failure to comply with the requests. Defendants are permitted 30 days from the date the waiver request is sent (60 days if addressed outside any judicial district of the United States) to return the signed waiver or electronically file it in the Court's Electronic Case Filing (ECF) system. If a signed waiver is not returned or electronically filed within the required time, an order shall be issued directing the Clerk's office to transmit the summons and a copy of the complaint to the U.S. Marshals Service for immediate service under Fed. R. Civ. P. 4(c)(1);

6. The Court must have the complete name and address for each and every Defendant named in the complaint in order to effect service. Any Defendant not properly identified will not be served. Therefore, if the complaint lists unknown Defendants or Defendants without proper mailing addresses, the Plaintiff shall provide to the Clerk's Office, the completed required Notice of Waiver of Summons, Waiver of Summons, and USM 285 forms, for each Defendant that cannot be properly served (unless the properly completed forms were sent to the Clerk with the complaint). If the Plaintiff does not have sufficient copies of the form to prepare one for each Defendant, he or she may obtain additional forms from the Clerk of Court. On this form the Plaintiff must give the full name and complete address of each individual Defendant. If Plaintiff fails to give the Clerk's Office correct instructions for mailing to any Defendant, his claims against that Defendant may be dismissed pursuant to Federal Rule of Civil Procedure 4(m). The Plaintiff is further advised that no Defendant is required to respond to the complaint until he or she has accepted a copy of the complaint and waived service, or has been served. Therefore, a motion for default cannot properly be filed unless the defendant has failed to file an answer, a motion to dismiss, or a motion for additional time to respond, within sixty (60) days after the notice has been mailed (if service is waived pursuant to the notice) or twenty-one (21) days after being served the summons and complaint by the United States Marshal Service, which will be done for defendants who do not waive service;
7. The Plaintiff shall immediately advise the Court of any change in address. Failure to do so may result in dismissal for failure to prosecute if the Court and other parties are unable to serve pleadings, orders and other documents

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania